

REMARKS

This amendment corrects some minor typographical issues noted in the claims of the prior amendment, and adds dependent claims 37-40 in which the compound GM-FITC is specifically claimed in the method.

Responsive to the restriction requirement mailed July 20, 2007 for the above-captioned application, Applicants hereby elect the claims of Group I (Claim 1-17 and 32-36 and new claims 37-40). The election is made **with traverse**.

In addition, Applicants make a species election of breast cancer cells as the cell type in claim 5 and SKBr3 and MCF7 as the pair of cell types from claim 8.


Reconsideration of the restriction requirement is requested. The Examiner asserts that the claims of the present invention lack a common technical feature and therefore are properly restricted into three groups. Applicants respectfully disagree and submit that all of the claims are properly considered in one application in accordance with PCT practice.

As between Groups I and II, these groups are both directed to method for identifying candidate molecules as having activity as an hsp 90 inhibitor. The method of independent claim 18 recites the same steps as set forth in the dependent claim 3 (which is part of Group I and is used in combination with the elected method). As between claims 3 and 18, this is a common technical feature, and the Examiner has offered no reasoning as to why this does not establish unity of invention. Further, it is noted that if the restriction is maintained, the claims of Group II would dominate at least some of the claims of Group I, but no double patenting rejection would be allowable. Thus, this restriction is contrary to public policy as reflected in obviousness-type double patenting rejections. As between groups I and III, the compound of group III is a compound specifically adapted for use in the method of elected claim 1 (see claims 32-36).

As justification for the restriction, the Examiner cites to a paper that discloses geldanamycin as a known compound that inhibits hsp90. The Examiner has not clearly explained, however, how this discloses the limitations of the instant claims, nor how it discloses a technical feature of this invention. The existence of a compound (or even many compounds) that inhibits hsp90 does not render a method of identifying other compounds obvious. It is such a method that is claimed in both groups I and II. Furthermore, geldanamycin has not been shown to be a compound within the scope of the claims of Group III since while it binds to hsp90, it does not have a fluorescent moiety attached.

For these reasons, Applicants submit that the restriction requirement should be withdrawn, and that all claims should be covered in this application.

Respectfully Submitted,

A handwritten signature in black ink, reading "Marina T. Larson", is positioned above a horizontal line.

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